



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,174	09/29/2003	Leigh E. Wood	58328US002	1946
32692	7590	10/10/2006	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			RODRIGUEZ, RUTH C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/674,174	Applicant(s) WOOD ET AL.	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-15 and 29-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-15 and 29-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7-15 and 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Document EP 0 669 121 A1 (EP '121) in view of Dilnik et al. (US 5,656,111).

EP '121 discloses a closure system comprises a base tab (90), a carrier tab (44), a fastener component (C. 20, L. 36-58), an overlap region and a bonding tape (74). The base tab comprises an outer edge (80) and first and second major surfaces (Figs. 1-3). The carrier tab comprises first and second major surfaces, an inner edge (50) and an opposing outer edge (108). The inner edge and the outer edge define a length of the carrier tab (Figs. 1-3). The fastener component is attached to at least one of the first and second major surfaces of the carrier tab (C. 20, L. 36-58). The overlap region in which a portion of the first major surface of the carrier tab faces the second major surface of the base tab such that the outer edge of the base tab is located between the inner and outer edges of the carrier tab (Figs. 1-3). The bonding tape is adhesively attached to the second major surface of the base tab adjacent the overlap region (Figs.

1-3). The bonding tape is further adhesive positioned or welded to the second major surface of the carrier tab within the overlap region (C. 18, L. 5-10). The inner edge of the carrier tab is located between the bonding tape and the second major surface of the base tab (Figs. 1-3).

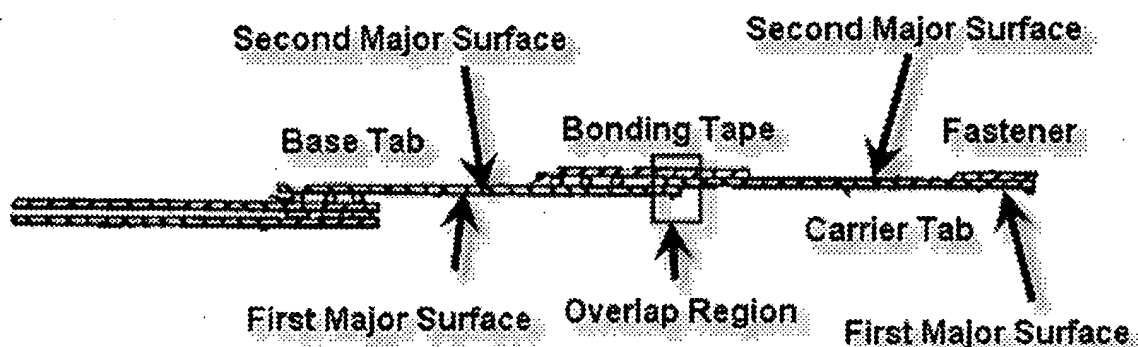


FIG. 3

EP '121 fails to disclose that the bonding tape is adhesively attached and welded to the major surface of the carrier tab with the overlap region. However, Dilnik teaches a closure system comprises a carrier tab (10), a fastener component (18) and a bonding tape (26). The carrier tab comprises an outer edge (14) and a major surface (Fig. 4B). The fastener component is attached to the major surface of the carrier tab (Fig. 4B). The bonding tape is adhesively attached between the carrier tab and the fastener component (Figs. 4B). The bonding tape is further adhesive attached and welded to the carrier tab and the fastener component (C. 6, L. 18-23 and C. 7, L. 29-62). The use of adhesive and welding to join the carrier tab to the fastener component produce a system that possesses good shear adhesion and good peel adhesion (C. 7, L. 39-55). Therefore, it would have been obvious to one having ordinary skill in the art at the time

Art Unit: 3677

of Applicant's invention to have a bonding tape that is further adhesively attached and welded as taught by Dilnik for the bonding tape that joins the base tab to the carrier tab for the closure system disclosed by EP '121 especially since EP '121 disclose the use of both systems to join the carrier tab to the bases tab and the system will possess good shear adhesion and good peel adhesion as taught by Dilnik.

No adhesive is located between the first major surface of the carrier tab and the second major surface of the base tab within the overlap region (Fig. 3).

At least a portion of the base tab exhibits elasticity (C. 16, L. 30-43).

The bonding tape comprises a layer of pressure sensitive adhesive facing the base tab and the carrier tab (C. 23, L. 31-58).

The carrier tab is inelastic (C. 21, L. 9-23).

The bonding tape is inelastic (C. 23, L. 31-58).

The base tab comprises an integral portion of a disposable garment (Fig. 1).

The fastener component is adhesively attached to the carrier tab (C. 20, L. 36-58).

The fastener component comprises a mechanical fastener component (C. 20, L. 36-58).

The bonding tape is coextensive with a width of the carrier tab as measured transverse to the length of the carrier tape (Figs. 1-3).

The fastener component is coextensive with a width of the carrier tab as measured transverse to the length of the carrier tape (Figs. 1-3).

Regarding claim 15, a combination of rejected claims 1, 3, 6, 8 and 9 will serve to reject claim 15 since claim 15 combines the limitations of all of the aforementioned claims.

The first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region (Figs. 1-3).

For claim 31, the same rejection of claim 15 serves to reject claim 31 since the base tab has at least a portion of the base tab that exhibits elasticity (C. 16, 30-43).

Regarding claim 43, a combination of rejected claims 1, 3, 6, 8, 9 and 29 will serve to reject claim 43 since claim 43 combines the limitations of all of the aforementioned claims.

For claim 44, the same rejection of claim 1 serves to reject claim 44 since the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Response to Arguments

3. Applicant's arguments filed 17 July 2006 have been fully considered but they are not persuasive.

4. The Applicant argues that EP' 121 fails to disclose that the inner edge of the carrier tab is located between the bonding tape and the second major surface of the base tab. The Examiner fails to be persuaded by this argument. The Examiner

provides a copy of Figure 3 showing all the elements being claimed and demonstrating that EP '121 does meet the claim limitations since it is essentially a mirror image of the Figure 1 of this application.

5. In response to the Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In this case, EP '121 disclose the use of both systems to join the carrier tab to the bases tab but it fails to disclosed that both systems are used together, however, Dilnik is being used for the teaching that the use of both systems being used together to join the carrier tab to the base tab is known in the art. Additionally, Dilnik also teaches an advantage for using both systems together since they provides good shear adhesion and good peel adhesion that is being used as the motivation for making the combination between EP '121 and Dilnik.

6. The Applicant argues that EP '121 fails to disclose that the first major surface of the carrier tape and the first major surface of the base tab are not attached to other within the overlap region by citing some of the disclosure of EP '121. The Examiner

fails to be persuaded by this argument. The text cited the Applicant only states that the release tape is adhesively bonded to the substrate portion (carrier tab) and it does not state that the substrate portion is adhesively bonded to the base tab in the overlap region. The Examiner acknowledges that the disclosure also cites that "a Y-bond which can strengthen the assembly" is cited but this does not mean that the substrate portion is adhesively bonded to the base tab in the overlap region. The Examiner also fails to be persuaded by Applicant's arguments that there must be an attachment between the substrate portion and the base tab in the overlap region since EP '121 is citing that "the release tape 74 may optionally overlap and adhesively bond". Once again nowhere in EP '121 states that for this embodiment the substrate portion is attached to base tab and the term "may optionally overlap and adhesively bond" is used to describe the embodiment shown and does not mean that an additional attachment of the base tab to the substrate portion is necessary.

7. In response to Applicant's argument that Dilnik fails to teach the claim limitations since Dilnik uses both adhesive and thermal bonds to secure the two members while the Applicant uses an adhesive to position and then thermally bonds the members, the fact that Applicant uses an adhesives and thermally bonds for a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference. *In re Lintner*, 173 USPQ 365.

8. Finally for claim 44, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawaguchi et al. (US 6,007,527), Richter et al. (US 6,363,587 B1) and Robertson et al. (US 6,736,804 B1) are cited to show state of the art with respect to closure systems having some of the features being claimed by the current application. Dilnik (US 5,656,111, US 5,660,666, US 6, 406,467 B1 and US 6,627,289 B1) are cited to show state of the art with respect to the use of welding and adhesive to join members of a closure system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571)

272-7070. The examiner can normally be reached on M-F 07:15 - 15:45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
October 2, 2006


Katherine Mitchell
Primary Examiner